

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FOREST LABORATORIES, INC.,
FOREST LABORATORIES HOLDINGS,
LTD., MERZ PHARMA GMBH & CO.
KGAA, and MERZ PHARMACEUTICALS
GMBH,

Plaintiffs,

v.

COBALT LABORATORIES INC., LUPIN
PHARMACEUTICALS, INC., LUPIN LTD.,
ORCHID PHARMACEUTICALS INC.,
ORCHID CHEMICALS &
PHARMACEUTICALS LTD. (d/b/a ORCHID
HEALTHCARE), TEVA
PHARMACEUTICALS USA, INC.,
UPSHER-SMITH LABORATORIES, INC.,
WOCKHARDT USA INC., and
WOCKHARDT LIMITED,

Defendants.

C.A. No. 08-21 (GMS)

**PLAINTIFFS' REPLY TO DEFENDANTS WOCKHARDT USA INC.'S
AND WOCKHARDT LIMITED'S COUNTERCLAIMS**

Plaintiffs/Counterclaim Defendants Forest Laboratories, Inc. and Forest Laboratories Holdings, Ltd. (collectively "Forest") and Merz Pharma GmbH & Co. KGaA and Merz Pharmaceuticals GmbH (collectively "Merz"), for their Reply to the numbered paragraphs of the Counterclaims of Defendants/Counterclaimants Wockhardt USA Inc. and Wockhardt Limited (collectively "Wockhardt") (D.I. 49), hereby allege as follows:

Parties, Jurisdiction and Venue

- 78. Admitted, upon information and belief.
- 79. Admitted.
- 80. Admitted.

81. Admitted.

82. Admitted.

83. Admitted.

84. Admitted.

85. Admitted.

The Controversy

86. Admitted that on January 10, 2008, Forest and Merz filed the present action against Wockhardt alleging infringement of the '703 patent, arising out of Wockhardt's submission of ANDA No. 90-073. Otherwise denied.

87. Admitted.

88. Denied that Forest has represented to the FDA that one or more claims of the '703 patent claim a chemical compound. Otherwise admitted.

89. Admitted, upon information and belief.

90. Admitted.

91. Admitted that Wockhardt made an offer of confidential access to Forest under 21 U.S.C. § 355(j)(5)(C), offering to provide access to its ANDA No. 90-073 to Forest. Admitted that on January 10, 2008, Forest and Merz filed the present action against Wockhardt alleging infringement of the '703 patent, arising out of Wockhardt's ANDA No. 90-073. Otherwise denied.

92. Admitted that Wockhardt has submitted ANDA No. 90-073 to the FDA seeking approval of its proposed generic memantine products. Otherwise denied.

93. Admitted.

Reply to Counterclaim I
(Noninfringement of the '703 Patent)

94. Plaintiffs/Counterclaim Defendants restate and incorporate by reference their responses to the allegations contained in Counterclaim Paragraphs 78-93 as though set forth specifically herein.

95. Denied, upon information and belief.

96. Denied.

97. Denied.

Reply to Counterclaim II
(Invalidity and Unenforceability of the '703 Patent)

98. Plaintiffs/Counterclaim Defendants restate and incorporate by reference their responses to the allegations contained in Counterclaim Paragraphs 78-97 as though set forth specifically herein.

99. Denied.

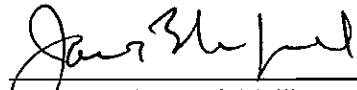
100. Denied. Wockhardt fails to state a cause of action upon which relief can be granted pursuant to Rule 9, Fed. R. Civ. P, with respect to enforceability of any claim of the '703 patent.

Reply to Wockhardt's Demand for Judgment

Wherefore, Plaintiffs/Counterclaim Defendants deny that Wockhardt is entitled to any relief, either as prayed for in its Counterclaims or otherwise.

Plaintiffs/Counterclaim Defendants further deny each allegation contained in Wockhardt's Counterclaims that was not specifically admitted, denied, or otherwise responded to in this Reply to Defendants/Counterclaimants Wockhardt USA Inc.'s and Wockhardt Limited's Counterclaims.

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March 26, 2008

CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2008 I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing to:

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I further certify that I caused to be served copies of the foregoing document on March 26, 2008 upon the following in the manner indicated:

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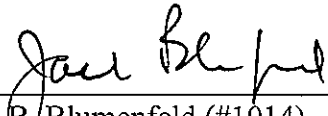
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